

Report of the  
**SPECIAL TOWN MEETING**  
**NOVEMBER 7, 2011**

In accordance with the Warrant, the Special Town Meeting was held in the Stony Brook Cafetorium on Monday, November 7<sup>th</sup>, 2011.

The meeting was called to order at 7:00p.m. by the Moderator, Stephen L. Doyle.

The tellers were David Lahive, David Quinn, and Pat Galante. The checkers were June Gallant, Mary Myers, Elizabeth Hardy, Lou Dufresne, Jackie Dufresne, Jayanne Sci, Joan Scheffer and Maureen Steinmann. Francis Smith, member of the Board of Registrars.

A quorum was present, with 340 registered voters in attendance.

The Town Clerk, Colette M. Williams, read the Special Town Meeting Warrant and the return of the Warrant. There being no objection, the Moderator dispensed with the reading of the articles.

**UNPAID BILLS**

<b><u>ARTICLE NO. 1:</u></b> To see if the Town will vote to transfer from available funds a sum of money to pay the following bills incurred but unpaid during a previous fiscal year,	
a. Cape Cod Hospital	\$215.00
b. Sea Sports, Inc.	\$37.00
c. Comcast	\$60.00
d. Our Outhouses, Inc.	\$540.00
e. Supermedia, LLC	\$384.00
f. Comm-Works	\$383.00
g. The Chas. C. Hart Seed Company	\$15,150.00
h. Mass Maritime Academy	\$395.00
I UPS	\$40.00
j. Cape & Vineyard Electric Cooperative, Inc.	<u>\$3,944.00</u>
Grand Total	\$21,148.00

or to take any other action relative thereto.

(Nine-Tenths Vote Required) (Board of Selectmen)

**MOTION:** I move that the town vote to approve article no. 1 as printed in the warrant and to transfer the sums of \$4,722.00 from Free Cash, \$352.00 from Ambulance Receipts Reserved for Appropriation account, \$924.00 from Golf Receipts Reserved for Appropriation account and \$15,150.00 line item no. 15 (Golf Expenses) of Article no. 3 of the 2011 Annual Town Meeting warrant for these purposes.

**ACTION:** ADOPTED UNANIMOUSLY

**BUDGETARY TRANSFERS**

<b><u>ARTICLE NO. 2:</u></b> To see if the Town will vote to transfer from available funds and/or appropriate from surplus funds in some departments an amount of money to be used in conjunction with funds appropriated under current fiscal year budgets to pay shortfalls that would otherwise exist in the Fiscal Year 2012 Budget of other departments, as follows:	
a) Transfer the sum of \$47,080.00 from Road Betterment Receipts Reserved for Appropriation account to line item no. 4 (Debt Service/Standish Heights & Hazel Lane) of article no. 3 of the 2011 Annual Town Meeting,	

or to take any other action relative thereto.

(Majority Vote Required) (Board of Selectmen)

**MOTION:** I move that the town vote to approve article no. 2 as printed in the warrant.

**ACTION:** ADOPTED UNANIMOUSLY

<b><i>CAPITAL AND SPECIAL PROJECTS EXPENDITURES</i></b>
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**ARTICLE NO. 3:** To see if the Town will vote to transfer from available funds a sum of money for the purpose of funding the following capital acquisitions and expenditures to be undertaken during Fiscal Year 2012 and to authorize the Town Administrator to sell, trade, lease, exchange or otherwise dispose of, in the best interests of the Town, old equipment or vehicles deemed available, the proceeds from any such disposition to be applied toward the cost of acquiring new equipment or services as the case may be:

<b>ITEM</b>	<b>DEPARTMENT</b>	<b>TRANSFER FROM AVAILABLE FUNDS</b>
<b>1.</b>	<b>Department of Public Works:</b>	
	a. Road Sweeper Lease Payment	\$38,900.00
	b. Dump Truck	\$50,792.00
	c. Trash Trailer Replacement	\$67,600.00
	d. Tree Removal	\$15,000.00
	e. Road/Drainage Repairs	\$40,000.00
	f. Spruce Hill Driveway Repair Project	\$39,262.00
	g. MS4 Implementation	\$60,000.00
	<b>Sub-total</b>	<b>\$311,554.00</b>
<b>2.</b>	<b>Fire Department:</b>	
	a. Dispatch Services Expense	\$32,000.00
	b. Rescue Service Billing Expense	\$17,000.00
	c. Fire Engine Lease/Purchase Payment Expense	\$108,000.00
	d. Ambulance Vehicle Replacement Project	\$160,000.00
	e. SCBA Equipment Lease/Purchase Payment	\$30,000.00
	f. Fire Building Renovation Project	\$50,000.00
	g. Personal Protective Equipment Acquisition	\$6,882.00
	h. CMED Program Funding	\$6,530.00
	<b>Sub-total</b>	<b>\$410,412.00</b>
	<b>Board of Selectmen:</b>	
	a. Water Planning Professional Services Expense	\$95,000.00
	b. COA Telephone System & Computer Network Project	\$9,014.00
	c. Veterans Memorial Project	\$1,000.00
	<b>Sub-total</b>	<b>\$105,014.00</b>
	<b>Water Department:</b>	
	a. Vehicle Replacement	\$35,000.00
	b. Water Construction Account	\$180,000.00
	c. Pump Station Modification Project	\$22,900.00
	<b>Sub-total</b>	<b>\$237,900.00</b>
	<b>Elementary School Department:</b>	
	a. HVAC Maintenance & Repairs	\$75,000.00
	b. Technology Project	\$30,000.00
	c. Replace Tractor & Lawn Mower	\$42,000.00
	d. Replace & Repair Gutters at Stony Brook School	\$20,000.00
	e. Replace Eddy School Water Faucets	\$11,500.00
	f. Carpet & Tile Replacement	\$7,000.00
	<b>Sub-total</b>	<b>\$185,500.00</b>

**6. Natural Resources Department:**

a. Architectural/Feasibility Study for Natural Resources Facility	\$15,360.00
b. Freemans Pond Culvert Replacement Project	\$25,000.00
c. Ellis Landing Engineering Services	\$10,000.00
d. Millsites Site and Accessibility Improvement Project	\$80,000.00

**Sub-total** **\$130,360.00**

**7. Ladies Library:**

a. Ladies Library Telephone System Replacement Project	\$10,152.00
b. Technology Improvement Project	\$24,500.00

**Sub-total** **\$34,652.00**

**8. Police Department:**

a. Portable Radio Replacement Program	\$16,182.00
b. Animal Control Vehicle Replacement	\$25,000.00
c. Security Camera Equipment	\$14,500.00
d. Emergency Planning Fund	\$10,000.00

**Sub-total** **\$65,682.00**

**9. Golf Department:**

a. Clubhouse Carpeting	\$20,000.00
b. Parking Lot Lighting	\$25,000.00
c. Pro Shop Fixtures	\$15,000.00

**Sub-total** **\$60,000.00**

**10. Recreation Department:**

a. Long Pond Dock System Replacement	\$26,000.00
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**Sub-total** **\$26,000.00**

<b>Grand Total</b>	<b>\$1,567,074.00</b>
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and to authorize the Town Administrator to solicit bids and/or proposals, enter into a contract or contracts, accept grant proceeds and expend said funds for these purposes, or to take any other action relative thereto.

(Majority Vote Required)

(Board of Selectmen)

**MOTION: I move that the town vote to approve article no. 3 as printed in the warrant, however that the following items be amended:**

- **Item no. 1 (c) Trash Trailer Replacement - amend the request to reduce the sum from \$67,600.00 to \$66,500.00,**
- **Item no. 3 (c) Veterans Memorial project - amend the request to increase the sum from \$1,000.00 to \$2,000.00,**

**and to appropriate the total amended sum of \$1,566,974.00 for these purposes, and in order to appropriate this total sum that the town transfer the sums of \$903,662.00 from Free Cash, \$237,900.00 from the Water Surplus account, \$5,000.00 from the Telecommunications account, \$360,412.00 from the Ambulance Receipts Reserved for Appropriation account and \$60,000.00 from the Golf Receipts Reserved for Appropriation account.**

**ACTION: ADOPTED**

<b><i>COMMUNITY PRESERVATION ACT FUNDING / Allocations</i></b>
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**ARTICLE NO. 4:** To see if the Town will vote to act upon the recommendations of the Community Preservation Committee; to appropriate from the Community Preservation Fund to spend

during Fiscal Year 2012 or to hold for future expenditure the following sums from the Fund’s Fiscal Year 2012 revenues; and to authorize the Town of Brewster, acting through its Board of Selectmen and Community Preservation Committee, to enter into contracts for the award of grants to the following agencies; all as follows:

<u>Item:</u>	<u>Category:</u>	<u>Request</u>
<b><u>1. Open Space:</u></b>		
a.	Mathews Property Land Acquisition Debt Service Expense	<b>\$180,000.00</b>
b.	Bates Property Land Acquisition Debt Service Expense	<b>\$61,058.00</b>
<b><u>2. Housing:</u></b>		
a.	Community Development Partnership: Nickerson State Park Condominium Affordable Rental Unit	<b><u>\$15,500.00</u></b>
<b>Grand-total</b>		<b>\$256,558.00</b>

or to take any other action relative thereto.

(Majority Vote Required) (Community Preservation Committee)

**MOTION:** I move that the town vote to approve article no. 4 as printed in the warrant and to transfer the sums \$241,058.00 from the Fund Balance Reserved for Open Space and \$15,500.00 from the Fund Balance Reserved for Housing for these purposes.

**ACTION:** ADOPTED UNANIMOUSLY

***SPECIAL REVENUE FUND / Cable Franchise Fee Account***

**ARTICLE NO. 5:** To see if the Town will vote to transfer the sum of ***EIGHTY-ONE THOUSAND AND 00/100 (\$81,000.00) DOLLARS*** from the Cable Franchise Fee account for local cable television related purposes, including, but not limited to the general public purpose of supporting and promoting public access to the Brewster cable television system; training in the use of local access equipment and facilities; access to community, municipal and educational meeting coverage; use and development of an institutional network and/or municipal information facilities; and/or any other appropriate cable-related purposes, or to take any other action relative thereto.

(Majority Vote Required) (Board of Selectmen)

**MOTION:** I move that the town vote to approve article no. 5 as printed in the warrant.

**ACTION:** ADOPTED UNANIMOUSLY

***FUEL ASSISTANCE FUNDING***

**ARTICLE NO. 6:** To see if the Town will vote to transfer from available funds a sum of money for the Lower Cape Outreach Council, Inc. and to authorize the Board of Selectmen to enter into contracts with this organization in order to provide fuel assistance services for residents of Brewster, or to take any other action relative thereto.

(Majority Vote Required) (Board of Selectmen)

**MOTION:** I move that the town vote to approve article no. 6 as printed in the warrant and to transfer the sum of \$10,000.00 from Free Cash for this purpose.

**AMENDED MOTION:** I move that the town “table this motion” and refer to the Health and Human Services Committee.

**ACTION ON AMENDED MOTION: DEFEATED****ACTION ON MAIN MOTION: ADOPTED UNANIMOUSLY*****NAUSET PUBLIC SCHOOLS HIGH SCHOOL RENOVATION PROJECT***

**ARTICLE NO. 7:** To see if the Town will approve the ***SIX MILLION FIVE HUNDRED TWENTY-NINE THOUSAND ONE HUNDRED EIGHTY-SIX AND 00/100 (\$6,529,186.00) DOLLARS*** borrowing authorized by the Nauset Regional School District, for the purpose of paying costs to replace the windows, exterior doors, and the roofs at Nauset Regional High School located at 100 Cable Road, North Eastham MA 02651 including the payment of all costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of the Nauset Regional School Committee. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities. Any grant that the District may receive from the MSBA for the Project shall not exceed the lesser of thirty-seven point thirty-two percent (37.32%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA, or take any action relative thereto.

(Majority Vote Required)

(Nauset Public School Committee)

**MOTION:** That the Town hereby approves the \$6,529,186 borrowing authorized by the Nauset Regional School District, for the purpose of paying costs to replace the windows, exterior doors, and the roofs at Nauset Regional High School located at 100 Cable Road, North Eastham MA 02651, including the payment of all costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of the Nauset Regional School Committee.

That the Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities.

Provided further that any grant that the District may receive from the MSBA for the Project shall not exceed the lesser of thirty-seven point thirty-two percent (37.32%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA, or take any action relative thereto.

Provided further that the approval of the District's borrowing by this vote shall be subject to and contingent upon an affirmative vote of the Town to exempt its allocable share of the amounts required for the interest and principal on said borrowing from the limitations on taxes imposed by M.G.L 59 Section 21C (Proposition 2 ½); and that the amount of the borrowing authorized by the district shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the District and the MSBA.

**ACTION: ADOPTED**



## **CONSTRUCTION OF A NEW WATER PUMP STATION AND WATER MAIN**

**ARTICLE NO. 8:** To see if the Town will vote to appropriate a sum of money to pay costs of, constructing and originally equipping Water Supply Well No. 6, associated Pump Station and water main, including the payment of all other costs incidental and related to the carrying out of this project and its financing, and to see whether such sum shall be raised by a transfer from available funds, or to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow a certain sum of money under and pursuant to Chapter 44 of the General Laws, and/or any other enabling authority, and to issue bonds or notes of the Town therefor; to transfer from available funds an additional sum of money for the purpose of paying for the preparation, issuance and marketing of bonds and notes issued hereunder and for paying interest on temporary notes issued in anticipation thereof; or to take any other action relative thereto.

(Two-Thirds Required)

(Water Commission)

**MOTION:** That the sum of \$3,220,000.00 is appropriated to pay costs of constructing and originally equipping Water Supply Well No. 6, including costs of an associated Pump Station and water main, and the payment of all other costs incidental and related to the carrying out of this project and its financing; that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Sections 7 and 8 of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor, and that \$7,000.00 is transferred from Water Revenues for the purpose of paying for the preparation, issuance and marketing of bonds and notes issued hereunder and for paying interest on temporary notes issued in anticipation thereof.

**ACTION:** ADOPTED BY A DECLARED 2/3 VOTE

## **LAND ACQUISITION / Community Preservation Act**

**ARTICLE NO. 9:** To see if the Town will vote to authorize the Board of Selectmen to acquire a parcel of vacant land designated on Brewster Assessors' Map 45 as Parcel 58-206, located at Ruddy Duck Road, in Brewster, Barnstable County, Massachusetts, consisting of 3.04 acres, more or less, and more accurately described in deeds recorded in the Barnstable County Registry of Deeds in Deed Book 15586 Page 45, and shown as Lot 6 on a plan of land entitled, "Wood Duck Estates Definitive Subdivision Plan of Land in Brewster, MA as Prepared for Richard C. Pozzo & Peter Willard, Scale: 1" = 60 ft., February 6, 2001, Schofield Brothers Registered Professional Engineers and Land Surveyors, 161 Route 6A- P.O. Box 101- Orleans, MA 02653," and recorded in Plan Book 565 Page 49, a copy of which is on file with the Brewster Town Clerk; to acquire said parcel by gift, purchase and/or eminent domain taking under Massachusetts General Laws, Chapter 79, or any other enabling authority; to acquire said land for open space, watershed protection, conservation and passive recreation purposes for the general public, consistent with the provisions of Mass. Gen. Laws, [Ch. 40](#), §8C, 310 C.M.R. 22.00, and Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts; to appropriate the sum of ***Two Hundred Thirty Thousand and 00/100 (\$230,000.00) Dollars*** to pay costs of this acquisition, and all other costs incidental and related thereto; to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow up to the sum of ***Two Hundred Twenty-Five Thousand and 00/100 (\$225,000.00)*** pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 7(3) and Section 8C, and/or any other enabling authority, and to issue bonds and/or notes of the Town therefor; to authorize the Town Treasurer to transfer from available sums the sum of ***Five Thousand AND 00/100 (\$5,000.00) Dollars*** for the purpose of paying incidental and related costs, including costs for grant funding applications and grant compliance, and the preparation, issuance and marketing of notes and bonds issued hereunder and for paying interest on temporary notes issued in anticipation thereof; to authorize the Board of Selectmen and the Conservation Commission to apply for, accept and expend any funds which may be provided by the Commonwealth or other public or private sources to defray a portion or all of the costs of acquiring this property, including but not limited to funding under the Self-Help Act, General Laws, Chapter 132A, Section 11 (now, so-called LAND grants), provided that the amount of notes or bonds issued hereunder shall be reduced by the amount of any such grants received or funds accepted prior to the sale of such notes or bonds; and further provided that any such sums from non-municipal sources shall be deposited in the open space account of the Community Preservation Fund and those funds are appropriated for and shall be applied to the lot's purchase price; to authorize the Board of Selectmen to grant to the Town of Orleans, for consideration of a sum not less than Fifty-Four Thousand

and 00/00 (\$54,000.00), a perpetual Conservation Restriction on said premises pursuant to the provisions of General Laws, Chapter 184, Sections 31 through 33, allowing the aforementioned uses at the time of closing or within a reasonable amount of time thereafter; and, to authorize the Conservation Commission to assume, subject to the Conservation Restriction, the care, custody, control and management of the property; and to authorize the Board of Selectmen and Conservation Commission to enter into all agreements and execute any and all instruments as may be necessary on behalf of the municipality to effect this purchase and obtain reimbursement funding; or to take any other action relative thereto.

(Two-thirds Vote Required)

(Community Preservation Committee)

**MOTION:** That the Board of Selectmen is authorized to acquire a parcel of vacant land designated on Brewster Assessors' Map 45 as Parcel 58-206, located at Ruddy Duck Road, in Brewster, Barnstable County, Massachusetts, consisting of 3.04 acres, more or less, and more accurately described in deeds recorded in the Barnstable County Registry of Deeds in Deed Book 15586 Page 45, and shown as Lot 6 on a plan of land entitled, "Wood Duck Estates Definitive Subdivision Plan of Land in Brewster, MA as Prepared for Richard C. Pozzo & Peter Willard, Scale: 1" = 60 ft., February 6, 2001, Schofield Brothers Registered Professional Engineers and Land Surveyors, 161 Route 6A-P.O. Box 101- Orleans, MA 02653," and recorded in Plan Book 565 Page 49, a copy of which is on file with the Brewster Town Clerk; that the Board of Selectmen is authorized to acquire said parcel by gift, purchase and/or eminent domain taking under Massachusetts General Laws, Chapter 79, or any other enabling authority and to acquire said land for open space, watershed protection, conservation and passive recreation purposes for the general public, consistent with the provisions of Mass. Gen. Laws, Ch. 40, §8C, 310 C.M.R. 22.00, and Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts; that the sum of *Two Hundred Thirty Thousand and 00/100 (\$230,000.00) Dollars* is appropriated to pay costs of this acquisition, and all other costs incidental and related thereto; that to meet this appropriation, the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow up to the sum of *Two Hundred Twenty-Five Thousand and 00/100 (\$225,000.00)* pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 7(3) and Section 8C, and/or any other enabling authority, and to issue bonds and/or notes of the Town therefor; that the Town Treasurer is authorized to transfer from the fund balance reserved for open space the sum of *Five Thousand and 00/100 (\$5,000.00) Dollars* for the purpose of paying incidental and related costs, including costs for grant funding applications and grant compliance, and the preparation, issuance and marketing of notes and bonds issued hereunder and for paying interest on temporary notes issued in anticipation thereof; that the Board of Selectmen and the Conservation Commission are authorized to apply for, accept and expend any funds which may be provided by the Commonwealth or other public or private sources to defray a portion or all of the costs of acquiring this property, including but not limited to funding under the Self-Help Act, General Laws, Chapter 132A, Section 11 (now, so-called LAND grants), provided that the amount of notes or bonds issued hereunder shall be reduced by the amount of any such grants received or funds accepted prior to the sale of such notes or bonds; and further provided that any such sums from non-municipal sources shall be deposited in the open space account of the Community Preservation Fund and those funds are appropriated for and shall be applied to the lot's purchase price; to authorize the Board of Selectmen to grant to the Town of Orleans, for consideration of a sum not less than Fifty-Four Thousand and 00/00 (\$54,000.00), a perpetual Conservation Restriction on said premises pursuant to the provisions of General Laws, Chapter 184, Sections 31 through 33, allowing the aforementioned uses, at the time of closing or within a reasonable amount of time thereafter; and, to authorize the Conservation Commission to assume, subject to the Conservation Restriction, the care, custody, control and management of the property; and that the Board of Selectmen and the Conservation Commission are authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect this purchase and obtain reimbursement funding.

**ACTION:** ADOPTED BY A DECLARED 2/3 VOTE

### ***LAND ACQUISITION / Community Preservation Act***

**ARTICLE NO. 10:** To see if the Town will vote to authorize the Board of Selectmen to acquire a parcel of vacant land designated on Brewster Assessors' Map 38 as Parcel 85, located at 0 Archies Cartway, in an area known as the Punkhorn in Brewster, Barnstable County, Massachusetts, consisting of 6.017 acres, more or less, and more accurately described in a deed recorded in the

Barnstable County Registry of Deeds in Deed Book 18474 Page 274, and on a plan of land entitled, "Plan of Land in (West) Brewster as surveyed for Barry M. Foss and F. Stephen Foss, Scale: 1" = 50', Sept. 1986, Slade Associates, Inc., Route 6 at Pine Point Road, Wellfleet MA. 02267" a copy of which is on file with the Brewster Town Clerk; to acquire said parcel by gift, purchase and/or eminent domain taking under Massachusetts General Laws, Chapter 79, or any other enabling authority; to acquire said land for open space, watershed protection, conservation and passive recreation purposes for the general public, consistent with the provisions of Mass. Gen. Laws, [Ch. 40, §8C, 310 C.M.R. 22.00](#), and Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts; to appropriate the sum of ***Two Hundred Seventy-Five Thousand and 00/100 (\$275,000.00) Dollars*** to pay the costs of this acquisition, and all other costs incidental and related thereto; to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow up to the sum of ***Two Hundred Seventy Thousand and 00/100 (\$270,000.00) Dollars*** pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 7(3) and Section 8C, and/or any other enabling authority, and to issue bonds and/or notes of the Town therefor; to authorize the Town Treasurer to transfer from available sums the sum of ***Five Thousand AND 00/100 (\$5,000.00) Dollars*** for the purpose of paying incidental and related costs, including costs for grant funding applications and grant compliance, and the preparation, issuance and marketing of notes and bonds issued hereunder and for paying interest on temporary notes issued in anticipation thereof; to authorize the Board of Selectmen and the Conservation Commission to apply for, accept and expend any funds which may be provided by the Commonwealth or other public or private sources to defray a portion or all of the costs of acquiring this property, including but not limited to funding under the Self-Help Act, General Laws, Chapter 132A, Section 11 (now, so-called LAND grants), provided that the amount of notes or bonds issued hereunder shall be reduced by the amount of any such grants received or funds accepted prior to the sale of such notes or bonds; and further provided that any such sums from non-municipal sources shall be deposited in the open space account of the Community Preservation Fund and those funds are appropriated for and shall be applied to the lot's purchase price; to authorize the Board of Selectmen to grant to the Trustees of the Brewster Conservation Trust, for no consideration, a perpetual Conservation Restriction on said premises pursuant to the provisions of General Laws, Chapter 184, Sections 31 through 33, allowing the aforementioned uses at the time of closing or within a reasonable amount of time thereafter; and, to authorize the Conservation Commission to assume, subject to the Conservation Restriction, the care, custody, control and management of the property; and to authorize the Board of Selectmen and Conservation Commission to enter into all agreements and execute any and all instruments as may be necessary on behalf of the municipality to effect this purchase and obtain reimbursement funding; or to take any other action relative thereto.

(Two-thirds Vote Required)

(Community Preservation Committee)

**MOTION:** That the Board of Selectmen is authorized to acquire a parcel of vacant land designated on Brewster Assessors' Map 38 as Parcel 85, located at 0 Archies Cartway, in an area known as the Punkhorn in Brewster, Barnstable County, Massachusetts, consisting of 6.017 acres, more or less, and more accurately described in a deed recorded in the Barnstable County Registry of Deeds in Deed Book 18474 Page 274, and on a plan of land entitled, "Plan of Land in (West) Brewster as surveyed for Barry M. Foss and F. Stephen Foss, Scale: 1" = 50', Sept. 1986, Slade Associates, Inc., Route 6 at Pine Point Road, Wellfleet MA. 02267" a copy of which is on file with the Brewster Town Clerk; that the Board of Selectmen is authorized to acquire said parcel by gift, purchase and/or eminent domain taking under Massachusetts General Laws, Chapter 79, or any other enabling authority; and to acquire said land for open space, watershed protection, conservation and passive recreation purposes for the general public, consistent with the provisions of Mass. Gen. Laws, Ch. 40, §8C, 310 C.M.R. 22.00, and Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts; that the sum of ***sum of Two Hundred Seventy-Five Thousand and 00/100 (\$275,000.00) Dollars*** is appropriated to pay the costs of this acquisition, and all other costs incidental and related thereto; that to meet this appropriation, the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow up to the sum of ***Two Hundred Seventy Thousand and 00/100 (\$270,000.00) Dollars*** pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 7(3) and Section 8C, and/or any other enabling authority, and to issue bonds and/or notes of the Town therefor; and that the Town Treasurer is authorized to transfer from the fund balance reserved for open space the sum of ***Five Thousand AND 00/100 (\$5,000.00) Dollars*** for the purpose of paying incidental and related costs, including costs for grant funding applications and grant compliance, and the preparation, issuance and marketing of



notes and bonds issued hereunder and for paying interest on temporary notes issued in anticipation thereof; that the Board of Selectmen and the Conservation Commission are authorized to apply for, accept and expend any funds which may be provided by the Commonwealth or other public or private sources to defray a portion or all of the costs of acquiring this property, including but not limited to funding under the Self-Help Act, General Laws, Chapter 132A, Section 11 (now, so-called LAND grants), provided that the amount of notes or bonds issued hereunder shall be reduced by the amount of any such grants received or funds accepted prior to the sale of such notes or bonds; and further provided that any such sums from non-municipal sources shall be deposited in the open space account of the Community Preservation Fund and those funds are appropriated for and shall be applied to the lot's purchase price; that the Board of Selectmen is authorized to grant to the Trustees of the Brewster Conservation Trust, for no consideration, a perpetual Conservation Restriction on said premises pursuant to the provisions of General Laws, Chapter 184, Sections 31 through 33, allowing the aforementioned uses at the time of closing or within a reasonable amount of time thereafter; and that the Conservation Commission is authorized to assume, subject to the Conservation Restriction, the care, custody, control and management of the property; and that the Board of Selectmen and Conservation Commission are authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect this purchase and obtain reimbursement funding.

**ACTION: ADOPTED BY A DECLARED 2/3 VOTE**

### ***GIFT OF LAND***

**ARTICLE NO. 11:** To see if the Town will vote to accept a gift of real property as shown on the Board of Assessors' Map No. 42, Lot No. 90-1 and to place the same under the jurisdiction and control of the Board of Selectmen, or to take any other action relative thereto.

(Two-thirds Vote Required)

(Board of Selectmen)

**MOTION: I move that the town vote to approve article no. 11 as printed in the warrant.**

**ACTION: ADOPTED UNANIMOUSLY**

### ***TOWN CODE AMENDMENT / Operation on Ponds***

**ARTICLE NO. 12:** To see if the Town will vote to amend the Code of the Town of Brewster, Chapter 69-2, BOATS/ARTICLE I, Operation on Great Ponds, as follows:

Current language:

- A. No gasoline, diesel or electric powered motors over three horsepower shall be permitted on any freshwater ponds in the Town of Brewster.
- B. Any emergency rescue boat shall be exempted from these limitations.
- C. These regulations shall not apply to ponds in Nickerson Park or ponds which are partly in the Town of Harwich, with the exception of Seymour Pond.
- D. Any person violating this section shall be punished by a fine of not more than \$200 for each offense.

Proposed language:

- A. No gasoline, diesel or electric powered motors over three horsepower shall be permitted on any freshwater ponds in the Town of Brewster.
- B. Any emergency rescue boat shall be exempted from these limitations.
- C. These regulations shall not apply to ponds in Nickerson Park or ponds which are partly in the Town of Harwich, with the exception of Seymour Pond.
- D. Any person violating this section shall be punished by a fine of **\$100** for each offense.

or to take any other action relative thereto.

(Majority Vote Required)

(Board of Selectmen)

**MOTION:** I move that the town vote to approve article no. 12 as printed in the warrant.

**ACTION:** ADOPTED UNANIMOUSLY

**ZONING BYLAW AMENDMENT / Art Galleries**

**ARTICLE NO. 13:** To see if the Town will vote to amend the Town of Brewster Zoning By-laws Section 179 Attachment 1, Table 1, Retail and Service, 2 (Antique Shop) by adding the words "Art Gallery", so that it reads (new text is in ***bold italics***):

	R-R	R-L	R-M	C-H	V-B	I	MRD	PWS- CF
2. Antique shop, <b>Art gallery</b>	-	-	<b><i>P</i></b>	P	P	-	-	--

and by adding the following definition to Section 179-2 (Definitions), following the definition of "Animal Hospital:"

***ART GALLERY – Floor space devoted to the production, showing or sale of art including but not limited to paintings, sculptures, handcrafts, and photographs. This definition does not include art museums. An Art Gallery can also accommodate art classes for no more than 10 students per class.***

or take any other action relative thereto

(Two-thirds Vote Required) (Planning Board)

**MOTION:** I move that the town vote to approve article no. 13 as printed in the warrant.

**ACTION:** ADOPTED BY A DECLARED 2/3 VOTE

**GENERAL BYLAW AMENDMENT / Discharges to Municipal Storm Drains**

**ARTICLE NO. 14:** To see if the Town will vote to amend the Code of the Town of Brewster by adding as Chapter 115 the following:

**Chapter 115  
BYLAW GOVERNING DISCHARGES  
TO THE MUNICIPAL STORM DRAIN SYSTEM**

**§115-1. PURPOSE**

The regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Brewster’s water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this Bylaw are:

- 1. To prevent pollutants from entering the Town of Brewster’s municipal separate storm sewer system (MS4);
  - 2. To prevent illicit connections and unauthorized discharges to the MS4;
  - 3. To require removal of all such illicit connections;
  - 4. To comply with state and federal statutes and regulations relating to stormwater discharges;
- and

5. To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

## **§115-2. DEFINITIONS**

For the purposes of this by-law, the following terms are defined as follows:

**AUTHORIZED ENFORCEMENT AGENCY:** The Department of Public Works (hereinafter "DPW"), its employees or agents designated to enforce this by-law.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth of Massachusetts.

**GROUNDWATER:** Water beneath the surface of the ground.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, and these discharges include sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

**ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7, subsection 4. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit, or a discharge resulting from fire fighting activities exempted pursuant to Section 7, subsection 4 of this bylaw.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, and this system includes any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Brewster.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit that is issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts and that authorizes the discharge of pollutants to waters of the United States.

**NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.

**PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth.

Pollutants shall include without limitation:

1. paints, varnishes, and solvents;
2. oil and other automotive fluids;
3. non-hazardous liquid and solid wastes and yard wastes, except dried leaves;
4. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
5. pesticides, herbicides, and fertilizers;
6. hazardous materials and wastes; sewage, fecal coliform and pathogens;
7. dissolved and particulate metals;
8. animal wastes;
9. rock, sand, salt, soils;
10. construction wastes and residues; and
11. noxious or offensive matter of any kind.

**PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

**RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**STORMWATER:** Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

**TOXIC or HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

**WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth of Massachusetts, and those waters include, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

**WASTEWATER:** Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### **§115-3. APPLICABILITY**

This Bylaw applies to any and all flows entering the municipally owned storm drainage system.

### **§115-4. AUTHORITY**

This Bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the federal Clean Water Act found at 40 CFR 122.34. Nothing in this Bylaw is intended to replace the requirements or authority of any other bylaw, state, federal or superseding authority.

### **§115-5. RESPONSIBILITY FOR ADMINISTRATION**

The DPW shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the DPW may be delegated in writing by the DPW to employees or agents of the DPW. The Brewster Board of Health, Natural Resources Director or the Building Commissioner may act as an agent of the DPW.

### **§115-6. REGULATIONS**

The DPW, through the Board of Selectmen and following a public hearing, may promulgate rules and regulations to effectuate the purposes of this by-law. Failure by the DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

### **§115-7. PROHIBITED ACTIVITIES**

- 1. Illicit Discharge** - No person shall dump, discharge, cause or allow to be discharged any pollutant, or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth or abutting property.
- 2. Illicit Connection** - No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- 3. Obstruction of the Municipal Storm Drain System** – No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the DPW.
- 4. Exemptions**
  - A.** Discharge or flow resulting from fire fighting activities;
  - B.** The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system.
    - a. Waterline flushing;
    - b. Flows from potable water sources;

- c. Springs;
- d. Natural flows from riparian habitats and wetlands;
- e. Diverted stream flow;
- f. Rising groundwater;
- g. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump or crawl space pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the DPW prior to discharge, and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the DPW;
- h. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), or air conditioner condensation;
- i. Discharge from landscape irrigation or lawn watering;
- j. Water from individual residential vehicle washing, including but not limited to cars, boats and recreational vehicles. It is recommended that washing take place on a pervious surface, such as a lawn or other unpaved area;
- k. Discharges from dechlorinated swimming pool water (less than one part per million chlorine) provided that the owner seeks a permit from the DPW prior to discharge, and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the DPW, and provided the water is allowed to stand for one week prior to draining, or tested for chlorine levels with a pool test kit prior to draining, and the pool is drained in such a way as to not cause a nuisance;
- l. Discharge from street sweeping;
- m. Dye testing, provided verbal notification is given to the DPW prior to the time of the test, preferably at least 72 hours prior to the start of the test;
- n. Non-stormwater discharge permitted under a National Pollutant Discharge Elimination System (NPDES) Permit, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver or order and applicable laws and regulations; and
- o. Discharges for which advanced written approval is received from the DPW as necessary to protect public health, safety, welfare or the environment.

#### **§115-8. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

A. The DPW may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents or may present imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the DPW may take all reasonable steps to prevent or minimize harm to the public health, safety, and welfare of the environment.

B. Any user that denies the Authorized Enforcement Agency reasonable access to the user's premises for the purpose of inspection, monitoring, records examination, or sampling of non stormwater or stormwater discharges is subject to discharge termination.

C. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Authorized Enforcement Agency may take such steps, as deemed necessary, including immediate severance of the sewer or storm drain connection, to prevent or minimize damage to the municipal storm drain system or its receiving stream, or endangerment to any individuals. The Authorized Enforcement Agency may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Authorized Enforcement Agency that the period of endangerment has passed.

#### **§115-9. NOTIFICATION OF SPILLS**

Notwithstanding other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected a release of materials at that facility or operation which is resulting or may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, that person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Brewster Fire and Police Departments, DPW and Board of Health. In the event of a release of



non-hazardous material, the reporting person shall notify the DPW no later than the next business day. Written confirmation of all telephone, facsimile or in person notifications shall be provided to the DPW within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

#### **§115-10. ENFORCEMENT**

1. The DPW or an authorized agent of the DPW shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
2. **Civil Relief** - If a person violates the provisions of this bylaw or of the regulations, permits, notices, or orders issued thereunder, the DPW may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or to compel the person to perform abatement or remediation of the violation.
3. **Orders** – The DPW or an authorized agent of the DPW may issue a written order to enforce the provisions of this by-law or the regulations thereunder, and these orders may require:
  - A. elimination of illicit connections or discharges to the MS4;
  - B. performance of monitoring, analyses, and reporting; and
  - C. remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and the expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written objection to the amount or basis of costs with the DPW within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the DPW affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, Section 57 after the thirty-first day at which the costs first become due.

6. **Criminal Penalty** - Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of \$100.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
7. **Non-Criminal Disposition** – As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition provision set forth in G.L. Ch. 40, Section 21D for any violation of this by-law or of any regulations, permit, notice, or order issued under it. The enforcing person shall be any member of the Department of Public Works, or the Police Department.
8. **Entry to Perform Duties Under this Bylaw** - To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW deems reasonably necessary.
9. **Appeals** - The decisions or orders of the DPW shall be final. Further relief shall be to a court of competent jurisdiction.
10. **Remedies Not Exclusive** - The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

#### **§115-11. SEVERABILITY**

The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or

circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this by-law.

**§115-12. TRANSITIONAL PROVISIONS**

Residential property owners shall have 120 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

or take any other action relative thereto.

(Majority Vote Required) (Planning Board)

**MOTION:** I move that the town vote to approve article no. 14 as printed in the warrant.

**ACTION:** ADOPTED

**ZONING BYLAW AMENDMENT / Farm Stands/Greenhouses**

**Article 15:** To see if the Town will vote to amend the Code of the Town of Brewster, Chapter 179 Zoning, Table 1 Use Regulations by repealing, under the Agriculture heading, these two use entries:

	R-R	R-L	R-M	C-H	V-B	I	MRD	PWS- CF
2. Year-round greenhouse or stand for wholesale and retail sale of agricultural or farm produce	P	P	-	P	-	-	-	-
3. Year-round greenhouse or stand	P	P	-	P	P	-	-	-

by adding the following use entry:

	R-R	R-L	R-M	C-H	V-B	I	MRD	PWS- CF
2. Year-round greenhouse or stand for wholesale and/or retail sale of agricultural or farm produce	P	P	S	P	P	P	-	-

and by renumbering the subsequent use entries 4 through 9 as 3 through 8, or to take any other action relative thereto.

(Two-thirds Vote Required) (Planning Board)

**MOTION:** I move that the Town vote to approve article no. 15 as printed in the warrant.

**ACTION:** DEFEATED

**ZONING BYLAW AMENDMENT / Large Scale Solar Installations**

**ARTICLE NO. 16:** To see if the Town will vote to amend the Town of Brewster Zoning By-laws Chapter 179, by renumbering the current Article XIV as Article XV and by adding as a new Article XIV the following:

## Large-Scale Ground-Mounted Solar Photovoltaic Installations

### 1.0 Purpose

The purpose of this bylaw is to provide standards for new large-scale ground-mounted solar photovoltaic installations, including the placement, design, construction, operation, monitoring, modification and removal of such installations, and thereby, to address public safety, and to minimize impacts on scenic, natural and historic resources.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations on private property and Town-owned land.

#### 1.1 Applicability

This section applies to large-scale ground-mounted solar photovoltaic installations proposed after the effective date of this section. For the purposes of this section, a large-scale ground-mounted solar photovoltaic installation is any solar photovoltaic array with a rated name plate capacity of 250 kW (DC) or more. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

### 2.0 Definitions

**As of Right Siting:** Development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development shall be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the Building Commissioner.

**Building Permit:** A construction permit issued by the Building Commissioner; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning by-laws, including those governing ground-mounted large-scale solar photovoltaic installations.

**Designated Location:** The zoning districts designated by Town Meeting, in accordance with Massachusetts General Laws Chapter 40A, section 5, where ground-mounted large scale solar photovoltaic installations may be sited. Said locations are shown on a Zoning Map pursuant to Massachusetts General Laws Chapter 40A Section 4.

**Large-Scale Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW (DC) or more.

**On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**Solar Photovoltaic Array:** an arrangement of solar photovoltaic panels.

**Special Permit Granting Authority:** For applications requiring a special permit, the special permit granting authority is the Planning Board

**Staff Review:** A review by Town staff pursuant to Section 83 of the Code of the Town of Brewster.

**Zoning Enforcement Agent:** The Building Commissioner.

### 3.0 General Requirements for all Large-Scale Ground-Mounted Solar Power

## Generation Installations

The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

### 3.1 Compliance with Laws, Ordinances and Regulations

The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

### 3.2 Building Permit and Building Inspection

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

### 3.3 Fees

The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit.

### 3.4 Staff Review and Site Plan Review

Large scale ground-mounted solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo Staff Review pursuant to the regulations in Chapter 83 of the Brewster Town Code. They shall also undergo Site Plan Review by the Planning Board, prior to construction, installation or modification as provided in this section, following the requirements in Sections 3.4.1 and 3.4.2.

#### 3.4.1 General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

#### 3.4.2 Required Documents

Pursuant to the plan review process, the project proponent shall provide the following documents:

- (a) A site plan showing:
  - i. Property lines and physical features, including roads, for the project site;
  - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
  - iii. Solar photovoltaic installation blueprints or drawings, signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, showing the proposed layout of the system and any potential shading from nearby structures;
  - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
  - vi. Name, address, and contact information for proposed system installer;
  - vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - viii. The name, contact information and signature of any agents representing the project proponent; and
- (b) A rendering or photo simulation showing the proposed project at completion;
- (c) Documentation of actual or prospective access and control of the project site (see also Section 3.5);
- (d) An operation and maintenance plan (see also Section 3.6);
- (e) A utility connection plan (see also Section 3.9.3), and an Acknowledgment of Application from the electric utility;
- (f) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose); and

(g) Proof of liability insurance.

The Planning Board may waive documentary requirements as it deems appropriate.

### **3.5 Site Control**

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

### **3.6 Operation & Maintenance Plan**

The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, and general procedures for operational maintenance of the installation.

### **3.7 Utility Notification**

No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

### **3.8 Dimension and Density Requirements**

#### **3.8.1 Setbacks**

For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- (a) Front yard: The front yard depth shall be not less than twenty-five (25) feet in the Industrial (I) and Municipal Refuse (MRD) districts and not less than fifty (50) feet in other districts.
- (b) Side yard. Each side yard shall have a depth not less than fifteen (15) feet in the Industrial (I) and Municipal Refuse (MRD) districts and not less than fifty (50) feet in other districts.
- (c) Rear yard. The rear yard depth shall be not less than twenty-five (25) feet in the Industrial (I) and Municipal Refuse (MRD) districts and not less than fifty (50) feet in other districts.

#### **3.8.2 Appurtenant Structures**

All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall, in the case of special permits, be subject to reasonable conditions concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

### **3.9 Design Standards**

#### **3.9.1 Lighting**

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

#### **3.9.2 Signage**

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Article VI of this by-law. A sign consistent with Article VI shall be required to identify the owner and provide a 24-hour emergency contact phone number.



Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

### **3.9.3 Utility Connections**

Utility connections from solar photovoltaic installations shall be underground, but the Planning Board, after considering the soil conditions, shape, and topography of the site and any requirements of the utility provider, may permit connections above ground. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

### **3.9.4 Screening**

The solar arrays should be screened from roads and from adjacent residential lots by a minimum 5-foot tall evergreen screen. The Planning Board may alter or waive this requirement if such screening would have a detrimental impact on the operation and performance of the array.

### **3.9.5 Security**

Appropriate measures shall be taken to prevent the solar arrays from being damaged or tampered with by individuals trying to access the area of the installation. The method of securing the site shall be subject to the approval of the Planning Board.

## **3.10 Safety and Environmental Standards**

### **3.10.1 Emergency Services**

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

### **3.10.2 Land Clearing, Soil Erosion and Habitat Impacts**

All attempts should be made to locate a large-scale ground-mounted solar photovoltaic installation in an area that requires little or no clearing of natural vegetation. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

## **3.11 Monitoring and Maintenance**

### **3.11.1 Solar Photovoltaic Installation Conditions**

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained at a level acceptable to the Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access roads, unless they have been accepted as public ways.

### **3.11.2 Modifications**

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

## **3.12 Decommissioning**

### **3.12.1 Removal Requirements**

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations due to the installation reaching the end of its useful life. The owner or operator shall notify the

Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

or take any other action relative thereto.

(Two-thirds Vote Required) (Planning Board)

**MOTION:** I move that the Town vote to approve article no. 16 as printed in the warrant.

**ACTION:** ADOPTED BY A DECLARED 2/3 VOTE

**ZONING BYLAW AMENDMENT/Large-Scale Solar Arrays on Private Property**

**ARTICLE NO. 17:** To see if the Town will vote to amend Chapter 179, Table 1, Community Facilities, by adding a new number 22 (shown in **bold**) as follows:

	R-R	R-L	R-M	C-H	V-B	I	MRD	PWS- CF
<b>22. Large-Scale Ground-Mounted Solar Photovoltaic Installation on private property</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>P</b>	<b>P</b>	<b>P</b>

or take any other action relative thereto.

(Two-thirds Vote Required) (Planning Board)

**MOTION:** I move that the town vote to approve article no. 17 as printed in the warrant.

**ACTION:** ADOPTED BY A DECLARED 2/3 VOTE

**CVEC / Utility Easement**

**ARTICLE NO. 18:** To see if the Town will vote to authorize the Board of Selectmen to grant, for no consideration, the Cape & Vineyard Electric Cooperative, Inc. an easement to install and maintain an underground electric system on Town-owned property in order to provide service to the new Department of Public Works Office & Garage Facility, located at 201 Run Hill Road, or to take any other action relative thereto.

(Majority Vote Required) (Board of Selectmen)

**MOTION:** I move that the town vote to approve article no. 18 as printed in the warrant, however, that the article be amended to included the words "photo voltaic array at the" between the words "new" and "Department" at the top of page 45, so the article will now read:

**ARTICLE 18.** To see if the town will vote to authorize the Board of Selectmen to grant, for no consideration, the Cape & Vineyard Electric Cooperative, Inc. and easement to install and maintain an underground electric system on town-owned property in order to provide service to the new photo voltaic array at the Department of public Works Office and Garage Facility, located at 201 Run Hill Road, or to take any other action relative thereto.

**ACTION: ADOPTED UNANIMOUSLY**

***LEASE OF TOWN OWNED PROPERTY FOR ENERGY PRODUCTION***

**ARTICLE NO. 19:** To see if the Town will vote to amend its vote under article no. 16 of the May 3, 2010 Annual Town Meeting by striking the phrase "not exceeding twenty years in duration" and by substituting for it the phrase "for twenty-five years in duration" and, otherwise, to confirm its purpose for the installation on Town land of photovoltaic arrays and equipment to generate electricity if the terms and conditions are sufficiently advantageous for the Town, or to take any other action relative thereto.

(Majority Vote Required)

(Board of Selectmen)

**MOTION: I move that the town vote to approve article no. 19 as printed in the warrant.**

**ACTION: ADOPTED UNANIMOUSLY**

***SPECIAL LEGISLATION / Rooms Occupancy Tax***

**ARTICLE NO. 20:** To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special Home Rule legislation, as follows:

"Notwithstanding any general or special law to the contrary, the town of Brewster may impose a room occupancy tax, in addition to any such occupancy tax currently allowed by law, on any vacation or leisure accommodation, including but not limited to apartments, single or multiple family housing, cottages, condominiums and time share units or any other such temporary occupancy not currently defined in Massachusetts General Laws, chapter 64G. Vacation or leisure accommodation is defined as occupancy for a price to be paid and intended at the time of contract to be for a period of ninety consecutive days or less regardless of whether such use and possession is as a lessee, tenant, guest or licensee. "

and to state that the legislature may vary the form of the enactment in order to properly achieve its objectives; or to take any other action relative thereto.

(Majority Vote Required)

(Board of Selectmen)

**MOTION: I move that the town vote to approve article no. 20 as printed in the warrant.**

**MOTION TO CUT OFF DEBATE: ADOPTED**

**ACTION: ADOPTED**

***PROFESSIONAL SERVICES / TAX TITLE ACCOUNTS***

**ARTICLE NO. 21:** To see if the Town will vote to transfer from available funds the sum of ***FIVE THOUSAND AND 00/100 (\$5,000.00) DOLLARS*** and to authorize the Town Administrator to enter into a contract or contracts for professional services and to expend these funds to undertake tax title foreclosure proceedings against delinquent property tax accounts, or to take any other action relative thereto.

(Majority Vote Required)

(Board of Selectmen)

**MOTION: I move that the town vote to approve article no. 21 as printed in the warrant and to transfer the sum of \$5,000.00 from Free Cash for this purpose.**

**ACTION: ADOPTED UNANIMOUSLY**

## ***TOWN CODE AMENDMENT/TOWN MEETING***

**ARTICLE NO. 22:** To see if the Town will vote to amend Chapter 48 of the Code of the Town of Brewster by adding as Article X, section 48-13, the following:

In the event that meeting facilities available within the Town will not accommodate the number of voters likely to attend a Special Town Meeting or an Annual Town Meeting, the Board of Selectmen may designate a suitable Meeting site outside the geographic limits of the Town. This authorization does not extend to any election or question to be determined by ballot.

or to take any other action relative thereto.

(Majority Vote Required)

(Board of Selectmen)

**MOTION:** I move that the town vote to approve article no. 22 as printed in the warrant.

**ACTION:** ADOPTED

## ***LAND USE FOR RENEWABLE ENERGY***

**ARTICLE NO. 23:** To see if the Town of Brewster will authorize its Board of Selectmen to enter into long-term contracts not to exceed a term of twenty-five years on behalf of the Town with private entities or governmental organizations related to renewable energy projects developed, sponsored or administered by the Cape & Vineyard Electric Cooperative, Inc., which contracts may include, but not be limited to: power purchase agreements, renewable energy certificate contracts, renewable energy project development agreements, and leases of land or buildings related to the development of renewable energy; or take any other action relative thereto.

(Majority Vote Required)

(Board of Selectmen)

**MOTION:** I move that the town vote to approve article no. 23 as printed in the warrant, however, that the article be amended so that the reference to "renewable energy projects" in the third line and "renewable energy" in the seventh line be deleted, and the words "photovoltaic energy systems" be substituted therefor in the third line and seventh line so that the article will now read:

**ARTICLE NO. 23:** To see if the Town of Brewster will authorize its Board of Selectmen to enter into long-term contracts not to exceed a term of twenty-five years on behalf of the Town with private entities or governmental organizations related to photovoltaic energy systems developed, sponsored or administered by the Cape & Vineyard Electric Cooperative, Inc., which contracts may include, but not be limited to: power purchase agreements, renewable energy certificate contracts, renewable energy project development agreements, and leases of land or buildings related to the development of photovoltaic energy systems; or take any other action relative thereto.

**ACTION:** ADOPTED

## ***CAPTAINS GOLF COURSE SERVICE CONTRACT***

**ARTICLE NO. 24:** To see if the Town will vote to authorize the Town Administrator to enter into a contract or contracts for the lease of an irrigation software service agreement at the Captains Golf Course for up to a five year period, or to take any other action relative thereto.

(Majority Vote Required)

(Board of Selectmen)

**MOTION:** I move that the town vote to approve article no. 24 as printed in the warrant.

**ACTION: ADOPTED**

***TRANSFER CUSTODY / Tax Title Property***

**ARTICLE NO. 25:** To see if the Town will vote to transfer to the Conservation Commission for conservation and passive recreation purposes the care, custody, control and management of the following parcels acquired after non-payment of real estate taxes:

<u>Assessors' Information:</u>	<u>Acres:</u>	<u>Location:</u>
a) Map No. 31, Parcel No. 52	0.90	0 State Park area
b) Map No. 31, Parcel No. 53	5.44	0 State Park area
c) Map No. 31, Parcel No. 56	2.88	0 State Park area
d) Map No. 38, Parcel No. 86	2 acres±	Archies Cartway
e) Map No. 38, Parcel No. 89	4 acres±	Black Duck Cartway
f) Map No. 39, Parcel No. 45	1 acre±	West Gate Road
g) Map No. 50, Parcel No. 52	17 acres±	Squantum Path

or to take any other action relative thereto.

(Majority Vote Required) (Board of Selectmen)

**MOTION: I move that the town vote to approve article no. 25 as printed in the warrant.**

**ACTION: ADOPTED UNANIMOUSLY**

***PROTECTING THE INTERESTS OF BREWSTER ENERGY CONSUMERS & RETURNING THE POWER TO THE PEOPLE***

**ARTICLE NO. 26:** To see if the Town will vote to better protect the interests of Brewster's residential and business consumers and give residents a direct voice in regional and local energy-related decision-making, as follows:

The Town's representative to the Cape Light Compact (CLC) and Cape & Vineyard Electric Cooperative (CVEC) shall be determined via nonpartisan election of a Brewster Energy Advocate by the town's voters, rather than at the discretion of the Board of Selectmen. As for other positions, the Town Clerk shall be responsible for administrating the election.

The Brewster Energy Advocate shall have the following responsibilities:

- Represent the interests of residential and business consumers in Brewster, as well as the Town as a municipal consumer, as the Town's voting member on the boards of CLC and CVEC
- Promote ratepayer-funded energy efficiency programs available to local consumers and increase awareness of power supply, renewable energy, rate discount, fuel assistance, and other programs
- Solicit public input on CLC and CVEC decision-making processes and associated practices, policies, priorities, and opportunities
- Provide a primary point of contact for addressing consumer issues, concerns, and questions relating to CLC and CVEC
- Consult with the Board of Selectmen, Town Administrator, Energy Committee, and other elected and appointed officials on a regular basis as issues arise with CLC, CVEC, private energy developers, and other local, regional, state, and federal entities
- Represent the public interest in any and all contract negotiation, permitting, and regulatory processes, including executive sessions called by the Board of Selectmen, that relate to energy projects sited within or outside the Town's borders and involve the Town, CLC, CVEC, and/or other parties
- Serve as an appointed or ex-officio member the Town's Energy Committee, as determined by the Board of Selectmen
- Increase public awareness and energy literacy by working with CLC, CVEC, and others as appropriate to support outreach and education programs in Brewster schools, at the Brewster Ladies Library, through the Council on Aging, and by other means



- Report to the public, Board of Selectmen, Town Administrator, Energy Committee, and others on CLC and CVEC meetings and activities on at least a bimonthly basis and through public hearings as defined below

The Brewster Energy Advocate, with support from Town, CLC, and CVEC officials, shall be responsible for holding at least two public hearings each year to increase awareness and improve disclosure regarding CLC power supply rates and options, CLC energy efficiency programs, and CVEC activities. These hearings shall be conducted in the June/July and December/January timeframes, consistent with the normal schedule of adjustments in electric rates for residential and business consumers. The Brewster Energy Advocate shall hold an additional public hearing in February of each year to support an annual review of CLC and CVEC activities and projects and their impacts on Brewster consumers during the previous calendar year. In particular, this hearing shall address the benefits realized by the Town, its constituents, and residential and business consumers for individual programs and projects in and outside of Brewster, as well as all costs and benefits incurred by CVEC, CLC, and other parties. For renewable energy projects, value streams to be accounted for include but are not limited to energy sales, net metering credits, renewable energy certificates, forward capacity market revenues, and carbon market allowances. On an as-needed basis, the Brewster Energy Advocate also shall hold public hearings to review any changes in the power purchase price, allocation of net energy or other commodities, lease payment, impact mitigation, or other terms included in contracts and/or permit conditions established between the Town, CVEC, CLC, and other parties and relating to the aforementioned projects. CLC and CVEC staff or responsible officials shall be asked to provide relevant and comprehensive data and information for presentation at each of the aforesaid hearings.

The first election of the Brewster Energy Advocate shall be held in conjunction with the May 2012 local election, with subsequent elections occurring every other year and scheduled to correspond with the local election. After each election, the candidate receiving the most votes shall immediately assume the position of Brewster Energy Advocate. The Board of Selectmen shall appoint an alternate to fulfill the Brewster Energy Advocate's responsibilities in the event said individual is not available on a temporary basis or vacates the position for any reason. If the position is vacated, the appointee shall serve as the Brewster Energy Advocate for the remainder of the present term, and the Board of Selectmen shall appoint another alternate. No special election shall be called to fill a vacated position.

The Town Code shall be updated as needed to reflect the provisions of this article.

or to take any other action relative thereto.

(Majority Vote Required)

(Citizen Petition)

**MOTION: I move that the town vote to indefinitely postpone consideration of article 26.**

**ACTION: UNANIMOUSLY VOTED TO INDEFINTELY POSTPONE**

<b><i>ANY OTHER BUSINESS</i></b>
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**ARTICLE NO. 27:** To act on any other business that may legally come before this meeting.

(Majority Vote Required)

(Board of Selectmen)

**MOTION: I move that the town vote to dissolve the 2011 Fall Special Town Meeting.**

**ACTION: ADOPTED UNANIMOUSLY**

The Special Town Meeting of November 7th, 2011 was dissolved at 10:20pm.

A True Copy Attest:

Colette M. Williams, CMC  
Town Clerk